

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

-against-

17-cr-0686 (LAK)

JAMES GATTO, et al.,

Defendant(s).

----- X

MEMORANDUM AND ORDER

LEWIS A. KAPLAN, *District Judge*.

This matter is before the Court on a motion by defendant Christian Dawkins, joined by defendants Code and Gatto, for an order permitting the defendant to disclose in discovery in the civil case *Brian Bowen II v. Adidas America, Inc. et al.*, No. 18-cv-3118- JFA (D.S.C.) (the “Civil Case”) discovery materials produced by the government under a protective order issued in this case. They have made a similar application before the Honorable Edgardo Ramos, who presides over a related criminal case in this district.

This Court appreciates the extension of comity by the distinguished judge presiding over the Civil Case in South Carolina as well as his generous offer to enter a comparable protective order in the event this Court were to modify its own protective order to allow production of discovery turned over by the prosecution in this case for use in the Civil Case. Here, however, the government has strenuously opposed the application. It points out that “granting [t]his request would permit the sharing of materials with multiple parties who had not been privy to the materials previously, and the materials could be shared further with other witnesses and potentially disclosed

at public proceedings in the Civil Case.” Some of that material would implicate privacy interests of third parties. And it would do so without a careful balancing of the comparative strength of the privacy interests at issue and the relevancy and materiality of specific materials for the Civil Case. Moreover, the movants here are free to expand their efforts in the Civil Case to obtain pertinent information directly from third parties.

Much as this Court would be eager to accommodate a request from a colleague in another district court, in all of the circumstances this application is denied.

SO ORDERED.

Dated: April 15, 2021

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", written over a horizontal line.

Lewis A. Kaplan
United States District Judge